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ABSTRACT

The report catalogues the status of state legislation regarding the elements dealing with child abuse and neglect and analyzes the trends, issues, and problems of selected subject areas in which public policy may not yet be fully developed. Addressed are the following subject areas: reportable conditions (definition of abuse and neglect); persons required to make reports; penalties for failure to report; public education; central registry; guardian "ad litem" (person appointed by the court to represent an abused or neglected child in legal proceedings); child protection teams; evidentiary questions; and termination of parental rights. Appended are a table on state action on child abuse and neglect, a list of state reporting statutes, and a list of state statutes on termination of parental rights. (SBH)

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Trends in Child Protection Laws — 1977

Report No. 106

From the ECS Child Abuse Project

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March 1978

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Trends in Child Protection Laws — 1977

Introduction

This report presents an update and substantial revision of ECS Report No. 95, published in January 1977 and entitled *Trends in Child Abuse and Neglect Statutes.* The material in Report No. 95 has been revised to include activity in the state legislatures through the session ending in late 1977. New sections have been added to discuss the adjudicatory and dispositional processes that are set in motion following the receipt of a report of suspected child abuse or neglect under the state reporting law. Because of the expanded scope of this report, the title has been changed to *Trends in Child Protection Laws — 1977.*

The first child abuse and neglect reporting statutes were enacted in the early 1960s. Since that time, all 50 states and the District of Columbia have enacted some statutory provision for mandatory reporting of non-accidental injury and neglect of children. These reporting acts have been extensively amended in many states since their original enactment. Thus, there has been significant legislative activity in this field since the original *Trends* was published one year ago.

Three elements are essential to the functioning of child abuse and neglect reporting acts: (1) workable, understandable definitions of reportable conditions of abuse and neglect; (2) a class of persons required to make reports of the existence of those conditions when they "reasonably believe" or "have reasonable cause to believe" that those conditions were caused by non-accidental means (i.e., by abuse or neglect); and (3) a required public response to offer services to the child so identified. In all states the legislative approach to child abuse and neglect involves *identification* of suspected

cases of abuse or neglect, *investigation* to determine whether abuse has in fact occurred and then *intervention*, normally through the juvenile court, to implement a treatment plan suitable for the child and the family.

ECS Report No. 95 sought to aid legislators, advocacy groups and other public policy makers in their continuing efforts to deal with child abuse and neglect in the states. This report continues that effort by cataloguing the most current status of state legislation with regard to the various elements of the reporting statutes and by analyzing the trends, issues and problems of selected subject areas in which public policy may not yet be fully developed. While other subjects are treated by the state acts (e.g., immunity for the reporter, confidentiality), nearly all states now have such provisions. Accordingly, this report addresses only the following specific subject areas:

1. Reportable conditions: abuse and neglect defined.
2. Persons required to make reports.
3. Penalties for failure to report.
4. Public education.
5. Central registry.
6. Guardian *ad litem* (a person appointed by the court to represent an abused or neglected child in legal proceedings).
7. Child protection teams.
8. Evidentiary questions.
9. Termination of parental rights.

In addition, three appendixes have been included. Appendix A is an updated version, current through the 1976 legislative session, of the chart published by ECS in the summer 1976 issue of *Compact* (Vol. X, No. 3). It shows the current distribution by state of the significant elements of the reporting and central registry statutes. Appendix B is a list of current citations for the state reporting and central registry statutes. For cases in which a state has a definition of "abuse" or "neglect" that is separate from the reporting act itself, a citation to that definition has been included. Appendix C is a list of current citations for the state statutes on termination of parental rights.

Reportable Conditions: Abuse and Neglect Defined

State legislation concerning the first element, reportable conditions of abuse and neglect, has demonstrated a steady trend toward broadening the class of conditions that are reportable under the statute and defining those conditions with greater particularity. It should be emphasized that the statutes require the reporter to report his or her suspicion that child abuse has taken place — or, in 16 states — that child abuse is threatened. They do not require a person to *know* that it exists.

Four principal classes of reportable conditions now appear in state reporting statutes (their distribution is shown in Appendix A):

1. *Nonaccidental Physical Injury.* This element, or its equivalent, is currently a reportable condition in all 50 states and the District of Columbia. Although the states vary in how broadly they define this term, most include such injuries as bruises, burns and broken bones.
2. *Neglect* is a reportable condition in 47 states and the District of Columbia. States not listing neglect as a reportable element under their reporting laws are Indiana, Maryland and Wisconsin. Neglect is most commonly defined as failure to provide the necessities of life — food, clothing, shelter and medical treatment.
3. *Sexual molestation* has recently been added by many states as a reportable condition of child abuse. This element, although reportable in 40 states and the District of Columbia, is rarely defined. Thus, although reporters are required to make a report if they "have reasonable cause to believe" it has occurred, they are given little guidance on what this element means in practice.
4. *Emotional and/or mental injury* is now a reportable element in 37 states and the District of Columbia. This element is often described as a secondary effect; a report must be made if the reporter reasonably believes that a child has suffered emotional distress or mental injury as a result of abuse or neglect. As is the case with sexual molestation, "emotional injury" is not well defined in the statutes.

Originally, the persons required to make reports of suspected abuse or neglect were required to do so only if they "reasonably believed" or "had reasonable cause to believe" that abuse or neglect had occurred (a *past*

event). Eighteen states now require reports for cases in which abuse or neglect is threatened or is likely to occur (a *prospective* event). This development is significant. While it appears to be an effort to identify the "child in peril" as quickly as possible, thereby avoiding further injury, it also places a heavier burden upon those who are charged, in most cases under pain of criminal sanctions, with the responsibility and the duty to make reports.

The requirement that a person make a report of "threatened" abuse or neglect can arise in three ways. First, the definition of abused or neglected child may include "threatened injury." When this definition is coupled with the subsequent statutory mandate to report an abused or neglected child, the reporter becomes obligated to report situations that threaten injury. For an example of this approach, see the Alabama Code, Sec. 26-14-1(1) (1976 Supp.). Second, the statutory mandate to the class of reporters may require that they report situations that "reasonably would result in (future) abuse or neglect." The Nebraska Revised Statutes, Sec. 28-1502 (1974 Supp.), exemplify this approach. Finally, the reporting act may define abuse and/or neglect to include threatened injury, then specifically require that reports of threatened abuse or neglect be made. The South Carolina Child Protection Act of 1977 (R297, H2796; June 13, 1977) provides an example of this approach. Although the inclusion of threatened harm as a reportable condition may help in identifying the child in peril more quickly, it should be noted that "conditions or circumstances likely to result in abuse" are not easy to define. Accordingly, the determination is left to the discretion of the reporter.

Paralleling the trend toward better definitions of what abuse or neglect is, at least one state has made an effort to set out the opposite boundary: what abuse or neglect is not. The new South Carolina Child Protection Act excludes from the definition of "harm" to a child's welfare "corporal punishment or physical discipline" meeting the following guidelines:

1. The physical aggression must be administered by a parent or person *in loco parentis*.
2. It must be perpetrated for the sole purpose of

restraining or correcting the child.

3. The force or violence of the discipline must be reasonable in manner and moderate in degree.

4. The force and violence of the discipline must not have brought about permanent or lasting damage to the child.

4. The behavior of the parent must not be reckless of grossly negligent.

Similar guidelines are established in the South Carolina Act to exclude from the definition of "mental injury" such parental controls as restrictions on amusements, theatres, television and other extracurricular activities. For similar examples elsewhere, see the Revised Code of Washington, Sec. 26.44.020(12) (1975 Supp.), and the Ohio Revised Code Annotated, Sec. 2151.031 (C) (1976 Supp.).

Some states have acknowledged the existence of abuse and neglect within the state institutional system and have provided special avenues for reports at state facilities. For examples of this, see the Nevada Revised Statutes, Sec. 200.502 (1976 Supp.); the Utah Code Annotated, Sec. 55-16-3 (1977 Supp.); and the Code of Virginia, Sec. 63.1-248.3 (1977 Supp.).

A steady trend in recent years has been the enactment of separate sections defining the reportable conditions of abuse. Currently, 45 states have separate definitional sections. However, in some of these states, the definitions now serve double purpose. They provide a basis for the reporting act, but they also supply the definition of the "crime" for the benefit of the criminal statutes enacted to punish convicted abusers. It is important that the reporting act contain its own definitional section, solely for the use of the mandated reporters. Whereas the criminal statutes assume that an act of suspected abuse has been discovered and reported, the reporting acts are enacted to encourage the reporting of suspected abuse; thus, the latter require that reportable conditions be defined in a manner that will help those required to make reports to identify the child in peril more quickly. For purposes of the reporting act, a definition of abuse must explain what is reportable. This usually amounts to a reasonable belief that child abuse has occurred (a state of mind).

The current challenge in this area is to communicate effectively to those mandated to make reports exactly what is reportable. A set of clear definitions may be one way to translate the letter of the law into understanding.

Persons Required to Make Reports

The trend in this area has consistently been to enlarge the group of persons mandated to make reports of suspected cases of child abuse or neglect. Professional medical personnel were the first to be included in the class of mandatory reporters. Currently, 46 states and the District of Columbia specifically require at least some medical professionals to make reports. Physicians and hospital staff are required by implication to make reports in the remaining four jurisdictions, which mandate "any person" to make reports.

In 1973, 31 states required teachers or other school personnel to make reports. Since that time, 11 more states have added education personnel. Also in 1973, only 10 states provided that persons in day care centers or child caring institutions make reports. Currently, some provision is made in 32 states for mandatory reporting from these centers. In 1973, 32 states mandated social workers to make reports. Ten more states have since added this category. In 1973, 14 states required law enforcement personnel to report suspected child abuse or neglect; the current total is 32 states. Twenty-two states now require "any person" having "reasonable cause to believe" that child abuse has taken place to make reports along with the other persons in the mandatory reporting class. Twenty-two states provide for permissive reporting — encouraging, but not requiring, any person "with reasonable cause to believe" that child abuse has occurred to make reports. These permissive reports are to be made in the same manner as those required by the statute.

The underlying reason for broadening the class of persons to make reports when they have reasonable cause to believe that a child has suffered from any of the reportable conditions of abuse or neglect is to identify as quickly as possible those children who are in peril. Professional personnel who come in contact with the child are logical sources of reports. This is particularly true of school teachers and day care personnel, who

have daily contact with children and are able to identify suspected abuse at a much earlier stage than most medical personnel. Preschool-age children who are not left at a day care center or other regular caring center seldom have any contact with the persons mandated to make reports until their cases are severe enough to require medical treatment. For this reason, the "any person" categories mentioned above are very important. Whether mandatory or permissive, they make it possible to identify the child in peril more quickly than would otherwise be the case.

Penalties for Failure to Report

While nearly all the states now require certain persons to make reports under the reporting act, not all reinforce this requirement with civil or criminal penalties for failure to comply with the law. In 1973, only 29 states had enacted penalties for failure to make reports as required. That number increased to 40 in 1977. The state-imposed criminal penalty is normally a fine and/or imprisonment, ranging from $25 and/or 10 days up to $1,000 and/or one year. Three states provide for only a fine.

Civil penalties take the form of a state-sanctioned right of action (or right to sue) against the person required to make reports, for compensation for the damages or additional injuries to the child caused by willful failure to make reports as required by the statute. Compensation for these further injuries suffered after a report *could* have been made are the damages that can be claimed in a civil lawsuit against the mandated reporter. States providing for such a civil action are enlarging upon the common law of negligence, a nonstatutory body of law created by the decisions of courts when faced with similar cases. Under this court-made law, any person has the right to sue another to compel him to pay for damages to the first person brought about by the other's negligent conduct. The negligent conduct in a child abuse case would be a failure to report suspected child abuse when the reporter reasonably felt that it had occurred. The failure to report is negligent because it is logical to expect such abuse, if allowed to go unreported, will continue.

In a recent decision, the California Supreme Court has held that common law precedents as well as the

statutory sanctions against willful failure of a mandated reporter to make a report are both available to provide legal remedies for the child further injured or abused. In *Landeros v. Flood*, (131 Cal. Rptr. 69 [1976]) the court held that a child who suffered further abuse following treatment by the defendant physician had a valid cause of action against the physician under both the mandatory reporting statute in California and under the common law of negligence. At issue in the case was whether the physician had "reasonable cause to believe," as required by the statute, that the child had been abused. The court concluded that the doctor should have diagnosed as nonaccidental the child's broken leg, primarily because of evidence that it had been broken by a twisting force for which there seemed to be no plausible, natural explanation.

The court subjected the defendant doctor's inaction in failing to make a report to the traditional tests applied by courts in the many other negligence cases decided under previous case law: the tests of "reasonableness" and "foreseeability." Essentially, this means that a reasonably prudent person, having been presented with the injuries described above, should have suspected the nonaccidental, abusive origin of the child's injuries and should have acted accordingly by making the report as required by the statute. This failure to act was negligent because a "reasonable person" would expect that further injury would occur if the abuse were not reported. For this further injury, which was "reasonably foreseeable," the doctor can be held responsible in a civil lawsuit.

While the addition of state-sanctioned rights of action brought on behalf of the child for the additional injuries suffered by him or her will lend some impetus to civil lawsuits for damages generally, the right to do so has always existed outside the reporting law. However, prosecutions for failure to report have been very rare, and few court cases have been decided on the matter. Whether the *Landeros* decision is a harbinger of things to come remains to be seen.

The minimum duty to report is well defined. The outer limits, however, are not. Mandated reporters should not be punished for exercising responsible discretion. When

is a fleeting suspicion just that? The statutes have, to date, remained largely silent on the more problematic aspects of reporting. Persons making reports in good faith are protected from civil and criminal actions based on those reports (for example, legal actions such as libel or slander proceedings).

Public Education

Public understanding of child abuse as a complex social problem, rather than merely as a medical one, is truly the key to eventual solution of the problem. Public understanding, in this context, means two things. First, the general public must be made aware that the problem exists and is more complex than sensational newspaper accounts have made it appear. Second, those persons mandated to make reports under the state reporting act must be made aware of their responsibilities under the law.

Some states have begun to address this challenge. Nine states have written a public education commitment into law and have appropriated funds to pay for it (e.g., California). Moreover, increasing attention is being paid to those people who begin the entire reporting and treatment process by making a report. Better definitions of the conditions that are reportable, supplemented with the "evidences of abuse" and "guidelines for corporal punishment" noted earlier, will aid the mandated reporters in carrying out their responsibilities. However, it is a fact that many of these mandated reporters are unaware of the law and their responsibilities under it. Without public awareness, the definitions are useless. Recognizing this problem, 15 states now provide some form of education and training for those mandated to make reports under the statute.

Central Registry

Thirty-nine states have enacted provisions within their reporting laws for a central registry of child abuse and neglect reports mandated by the law. An additional nine states and the District of Columbia maintain some form of administratively created central registry, leaving only two states (New Mexico and Utah) without at least some provision for maintaining reports. In 1973, 33 states mandated central registries by law, while registries were maintained administratively in 13 other states and the District of Columbia, in contrast to 19 states with

mandated registries and 26 with administrative ones in 1970. The trend is clearly to enact into law a central registry that was in most cases already functioning administratively.

Central registries of child abuse and neglect reports can be made to serve more than a statistical, record-keeping function. It is widely believed that abusive parents or other guardians of children attempt to hide the fact of their abuse by taking the child to a different hospital or doctor each time they decide to obtain medical care. In such cases of "hospital shopping" or "doctor shopping," the attending physician is without information concerning the child's medical history. Without this knowledge, doctors may be less willing or even unable to diagnose or report child abuse in that particular case. In those states with central registries that give doctors access to reports made on any given child (often by providing a 24-hour toll-free telephone number at which the registry can be reached), the doctor can quickly determine whether the child has suffered any reported injuries in the past as a result of suspected abuse. If so, the doctor is aided in properly diagnosing the current injury and making a report of suspected child abuse or neglect if it is warranted.

The use to which reports collected in the central registry may be put is the subject of much controversy. While it is true that a doctor may be aided in treating a child if the past history of abuse reports is known, two drawbacks exist:

1. If there is no history of child abuse reports on the child, the doctor may be inclined not to diagnose the current injuries as abuse and not make the first report on the child.
2. If there *is* a history of child abuse reports on the child, the doctor may be unreasonably influenced by them in making the diagnosis of the current injury and may diagnose and report child abuse when in fact it has not occurred.

Thus, a serious question exists whether the value of central registries as a diagnostic aid is overshadowed by the undue influence caused by knowing the past history of the child. Accordingly, the only problem-free func-

:ion of central registries may be for record-keeping and statistical purposes.

Most states providing for some form of central registry also require that the reports be confidential. Access is normally limited to specific classes of persons, including doctors, the child's guardian *ad litem*, the court, the social services department and persons engaged in research. Provision is commonly made for expungement of unfounded reports as well as expungement or sealing of records after a term of years or the child's majority.

The information available in the central registry often proves helpful to courts in determining the disposition of a child whose parents or guardians have moved him in and out of several jurisdictions in the recent past. The central registry is also used by social services departments as an initial screening mechanism to determine whether a report of abuse is founded or not.

Guardian Ad Litem

We have been considering the initial phase of a child abuse or neglect case — the reporting of suspected (or threatened) abuse or neglect by someone required to make reports. However, this is only the first step. Next, a designated agency within the state, normally the state department of social services or its equivalent, enters the case, conducts an investigation and upon making a finding of child abuse offers protective and counseling services to the child and his or her family. Temporary emergency custody of the child may be sought. Twenty-seven states provide, by statute, for the removal of the child from the home, based upon some variant of the basic standard that an imminent danger to the child's health or physical safety exists. The state social services department, as a result of its investigations, may choose to bring a petition in the juvenile court to have the child declared abused or neglected within the state's definition of those terms. Concurrently, the local district attorney may decide to file charges against the suspected abusive parent or guardian under the state's criminal statutes.

In short, various aspects of the state judicial and administrative system become immediately involved soon after a report of abuse or neglect is made. The state will be represented in these matters by its district

attorney, the social services department by its own attorney or by the county attorney, and the parents or guardians by yet another attorney. It seems logical that the child, a central figure in the entire process, needs to be adequately represented. Recognizing this need, all but six states now either require or permit the appointment of a guardian *ad litem* (legal representative) for children in child abuse and neglect cases, usually upon a finding by a judge that adequate representation of the child's interests so requires. States without statutory provision for the appointment of such legal guardians are Alaska, Delaware, Kentucky, Nevada, Maryland and Hawaii. Many of these provisions are found in the juvenile court law rather than in the reporting act.

Instead of pursuing an adversarial role, the guardian *ad litem* appointed by the court as an officer of the court, aids the court in executing its duty as *parens patrie* (the public responsibility to intervene on behalf of abandoned, abused or neglected children) for the child. The compelling reason for the move by most states toward the guardian *ad litem* concept seems to be to guarantee the child independent legal representation for his or her interests. This follows from the recognition that the child's interests in the typical three-sided abuse or neglect proceeding either do not square with, or are adverse to, those of the social services department and those of the parents (the other two parties to such a proceeding). Since the U.S. Supreme Court has held that a child has a right to independent representation in juvenile proceedings that may end in incarceration, it would be anomalous not to require independent legal representation in abuse proceedings, in which the child's very life is often at stake. (See *In Re Gault*, 387 US 1, 87 S.Ct. 1428, 18 L. Ed. 2d 527 [1967]).

Child Protection Team

Recent activity has indicated an increased state involvement in the child abuse treatment process. Seven states now specifically mandate the creation of multidisciplinary child protection teams, and eight more recognize the interdisciplinary nature of the child abuse problem and allow for such services to be made available.

At a minimum, the diagnosis of abuse and the formulation and implementation of a suitable treatment plan involve the disciplines of medicine, law, social welfare,

counseling, psychology and education. It is unrealistic to assume that the agency commonly given primary responsibility for treatment — the county or state department of social services — can provide all the expertise necessary. *Colorado Revised Statutes Annotated* 19-10-104 (1976 Cum. Supp.) include the following persons in the team: physician, representative of the juvenile court of district court with juvenile jurisdiction, state social service agency, the local law enforcement agency, county health department, mental health clinic, public health department, attorney, public school district and one or more representatives of the lay community. The object of these teams is to provide the child and his or her parents with the full range of social, medical, legal and psychological services needed to determine whether the child has been abused and then to develop the proper diagnosis, prognosis and plan for treatment. While it may not be necessary to provide for a formal "team" as such, it would seem beneficial to provide the responsible agency or agencies with a mandate for action that recognizes the interdisciplinary nature of the child abuse problem.

Evidentiary Questions

During the various judicial and administrative proceedings mentioned above, the questions of whether the abuse or neglect did or did not occur, and if so, the extent and severity of that abuse or neglect, will be very important. It is a fact that children heal quickly. Bruises fade in a surprisingly short period of time. Burned areas of skin regenerate themselves. Scar tissue disappears. Even the effects of undernourishment can be overcome rapidly upon the resumption of a healthy diet.

It thus becomes extremely important to preserve an accurate picture of the conditions of abuse or neglect at the time they occurred. To this end, 18 states have made provision in their reporting statutes for the taking of x-rays and color photographs at the time the abuse or neglect is reported. In some states the person making the report is authorized to obtain such evidence, while in others the responsibility falls upon the state social services department or its equivalent. In some states the reporter and/or the department is required to obtain x-rays or photographs. The states allowing this procedure also provide that such x-rays and photographs are admissible in judicial proceedings concerning the child.

Thirty-three states currently provide for the abrogation of certain traditional privileges under which a person may claim the right to refuse to answer certain questions in a court of law. For example, these states eliminate the privilege protecting communication between a doctor and his patient, or between a husband and wife, when either is called to testify in a child abuse or neglect action. In this manner, it is possible for a court to obtain testimony from persons who are in positions to know whether abuse or neglect have occurred. The same individuals are often required to make reports of suspected abuse or neglect under the reporting law.

Termination of Parental Rights

All but three states (Alabama, Maryland and Massachusetts) have enacted some form of legislation authorizing their courts to terminate the parent-child relationship under certain circumstances. During the past five years, well over half of the states have either enacted new termination statutes or have substantially amended existing law. The general trend of this recent legislative activity has been to expand the use of termination as a dispositional alternative.

There are three different types of provisions for the termination of parental rights. In several states, termination is available only as a dispositional alternative in a juvenile proceeding where the judge has made a preliminary finding that the child has been abandoned, neglected or abused by the parent or guardian (e.g., *Alas. Stat.* Sec. 47.10.080 [c] [3]). A second approach is to utilize the reasons for termination (abandonment, neglect, etc.) as additional grounds under which parental consent is not required for adoption (e.g., *Ind. Stat. Ann.* Sec. 31-3-1-6 [g]). The effect of such provisions is to terminate the parental rights of the natural parent when the child is subsequently adopted. Third, the most recent development with respect to termination statutes has been the enactment, in several states, of detailed statutory schemes providing for termination as a completely independent judicial procedure (e.g., Iowa, Colorado). These provisions generally specify the manner in which the action may be initiated, procedures for giving notice to the parents, requirements for a preliminary investigation and hearing, and the legal effect of the termination decree.

Forty-one states provide that termination proceedings may be initiated by filing a petition with the proper court, setting forth the grounds upon which termination is sought. Several states provide that a petition may be filed only by specific parties, such as state agencies or officers (e.g., *La. Rev. Stat. Ann.* Sec. 13-1601), a duly licensed child placement agency (e.g., *R.I. Gen. Laws Ann.* Sec. 15-7-6) or by one parent with respect to the other parent (e.g., *Pa. Stat. Ann.* Tit. I Sec. 312 [i]). However, an increasing number of states have expanded the category of authorized petitioners to include any person who has knowledge of the facts (e.g., *Ga. Code Ann.* Sec. 24 A-1602) or any person or agency having a legitimate interest in the child's welfare (e.g., *Ariz. Rev. Stat.* Sec. 8-533).

All of the states having statutory provision for the termination of parental rights have established at least one ground upon which termination may be ordered. In a few cases the grounds are described very generally (e.g., *Utah Code Ann.* Sec. 55-10-109 [1]), thus giving the trial court broad discretion. Most states, however, have specified detailed conditions of parental or guardian actions that, if proven, constitute grounds for terminating parental rights (e.g., *Cal. Civil Code* Sec. 232 [a]; *Colo. Rev. Stat.* Sec. 19-11-105 [1][2]). Thirty-eight states and the District of Columbia have specifically listed abandonment as a ground for termination. Several states have specified the period of time the parent must have been away from the child in order for the child to be considered abandoned (e.g., *Utah Code Ann.* Sec. 55-10-109 [1] [b]; six months).

Other frequently specified grounds for termination include abuse or cruel treatment (29 states); neglect or failure to supervise or control adequately (34 states); parental unfitness due to mental illness or deficiency (23 states); and excessive use of alcohol or narcotics (16 states). Sexual abuse of the child (e.g., *Colo. Rev. Stat.* Sec. 19-11-105 [2] [6] and parental convinction of a crime indicating unfitness (e.g., *Ariz. Rev. Stat.* Sec. 8-533) are also commonly listed as grounds for termination. In most states, voluntary parental consent will allow termination.

There appears to be no clear trend for the amount of

discretion given to the trial court upon its finding that one or more grounds for termination exist. Some states provide that if the trial court finds any of the ennumerated grounds to be present, it *may* order termination (e.g., *Ky. Rev. Stat. Sec.* 199.600 [1]), while others provide that, upon so finding, the trial court must order termination (e.g., *Tex. Code Ann.* Sec. 15.05).

In most states the effect of the termination decree is to divest the parent or guardian of all legal rights, privileges, duties and obligations with respect to the child. In a few states, however, the child may retain the right of inheritance (e.g., Texas, Oklahoma), and in at least two states the parent may still be liable for financial support, notwithstanding termination (*Maine Rev. Stat.* Sec. 32-3793; *N.J. Stat. Ann.* Sec. 9:2-20).

A few states specify that the termination order may not be set aside or modified but may be appealed (e.g., California, Nevada). This result is implicit in most termination statutes, although some specifically provide for temporary orders or later changes and modifications (e.g., Oregon, Washington, West Virginia).

Appendix A

STATE ACTION ON CHILD ABUSE AND NEGLECT

	Federal P.L. 93-24	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut	Delaware	Florida	Georgia	Hawaii	Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Maine	Maryland	Massachusetts	Michigan
Reportable conditions:																							
Nonaccidental physical injury	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Neglect	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x		x	x
Sexual molestation	x	x		x	x	x	x	x	x	x	x	x	x	x			x	x		x	x	x	x
Emotional/ mental injury	x	x		x	x	x	x	x	x	x		x		x			x	x	x	x		x	x
Threatened abuse or neglect		x		x			x						x					x	x	x			x
Separate definition section, including "abuse" and/ or "neglect"		x	x	x	x	x	x	x	x	x		x	x	x		x	x	x	x	x	x		x
Persons required to report:																							
Medical personnel		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Educational personnel		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Day care personnel		x		x	x	x	x	x		x	x		x	x	x	x	x	x	x	x			x
Social service workers		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Law enforcement personnel		x	x	x	x	x		x			x			x	x	x	x	x		x	x	x	x
Any person		x						x	x	x			x		x			x	x		x		
Permissive report		x	x		x		x				x	x		x		x	x			x			x
Form of report:*																							
Oral		x		x	x	x	x	x	x	x	x	x		x		x	x	x	x	x	x	x	x
Written		x		x	x	x	x	x		x	x	x		x		x		x	x	x	x	x	x
When report must be made:**																							
Immediately		x	x	x	x		x	x	x	x	x	x		x	x	x		x	x	x			x

*Only required reports are included in the chart. The state may permit other forms of reporting.
**Refers to oral report.

Minnesota	Mississippi	Missouri	Montana	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia	Washington	West Virginia	Wisconsin	Wyoming	Dist. of Columbia	TOTAL
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x		x	x	x	x	x		x		45
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x				x	x	x	x				47
x	x	x	x	x	x	x		x	x	x	x	x		x	x		x	x					x	x	x	x			42
x	x	x			x	x			x	x	x	x		x	x		x						x	x	x				32
x	x	x	x	x	x	x		x	x	x	x	x		x	x		x	x					x	x	x	x			42
x	x	x	x			x		x	x	x	x			x	x		x	x				x			x				32
			x	x		x	x	x		x			x		x	x			x	x	x						x		22
x					x				x		x	x			x		x					x	x	x	x				22
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x		x	x	x	x	x	46
	x	x	x	x	x	x	x	x	x		x	x	x		x	x				x		x	x			x		x	36
x	x					x	x		x		x	x		x	x	x		x	x	x			x	x	x	x	x	x	36

	Federal P.L. 93-24	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut	Delaware	Florida	Georgia	Hawaii	Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Maine	Maryland	Massachusetts	Michigan
When report must be made:* (cont.)																							
"Promptly," "as soon as possible"	x																x				x	x	
Longer						x		x				x	x	x							x	x	x
Contents of report																							
Present facts		x		x	x		x	x			x	x		x		x	x	x	x	x	x		x
Previous abuse		x			x		x				x			x		x	x	x		x	x		
Photos, x-rays				x	x		x			x				x	x	x				x			x
Confidentiality of records	x	x	x	x	x		x	x	x	x	x		x	x		x	x	x	x	x	x	x	x
Penalties for failure to report:																							
Criminal		x		x	x	x	x	x	x	x	x				x	x	x	x	x	x			
Civil					x		x								x	x							x
Fine only																							
Interagency cooperation	x		x		x	x	x	x								x		x					x
Reporter and personnel training	x					x	x	x		x						x							
Responsibility for public education	x					x				x						x							x
Guardian ad litem	x	x		x	x	x	x	x		x	x		x	x	x	x	x		x	x		x	x
Temporary protective custody		x		x	x	x	x	x		x			x	x			x		x		x		x
Central registry		x	x	x	x	x	x	x	x	x		x	x	x		x	x		x		x	x	x
Abrogation of privileged communications		x	x	x	x		x		x	x		x		x		x	x		x		x		x

*Refers to oral report.

This information covers the legal provisions or requirements in child abuse and neglect reporting state statutes and the federal P.L. 93-247 as of November 1976. In some states internal procedures have

Minnesota	Mississippi	Missouri	Montana	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia	Washington	West Virginia	Wisconsin	Wyoming	Dist. of Columbia	TOTAL
			x		x	x		x					x								x				x				10
			x		x	x			x						x					x								14
	x			x	x		x	x	x	x		x	x	x	x				x	x	x	x	x						31
	x			x	x		x	x	x			x	x	x	x							x							21
							x		x			x		x	x		x						x		x		x		18
x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x		46
x		x	x	x	x	x	x	x	x	x	x		x		x		x	x	x	x	x			x	x	x			36
									x																				6
														x								x	x						3
x	x	x			x		x			x	x	x			x		x		x	x	x		x			x	x		25
		x			x				x		x	x			x		x						x		x	x			15
		x													x		x						x		x				10
x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	45
			x				x	x	x	x	x				x		x		x			x	x	x	x		x		27
	x	x		x	x	x	x		x		x		x	x	x	x	x	x	x			x	x	x			x		39
x				x	x		x			x	x	x		x	x		x	x	x	x	x		x	x	x	x	x		33

been developed to cover elements not specifically mandated by the laws in those states, particularly the central registry.

Appendix B

STATE REPORTING STATUTES

State	Citation
Alabama	ALA. STAT. § 26-14-1 – 26-14-13 (1977 Supp.)
Alaska	ALAS. STAT. 47.17.010 – .070; (1977 Cum. Supp.)
Arizona	ARIZ. REV. STAT. § 8-531; 13-842.01 (1977-78 Cum. Supp.)
Arkansas	ARK. STAT. ANN. § 42-807 – 42-818 (1975 Cum. Supp.)
California	CAL. PENAL CODE § 11110; 11160.0 – 11162; HEALTH AND SAFETY CODE § 306.6; WELF. AND INSTITUT. CODE § 18950 – 18962 (1976 Cum. Supp.)
Colorado	COLO. REV. STAT. ANN. § 19-10-101 – 19-10-115 (1976 Cum. Supp.)
Connecticut	CONN. GEN. STATS. ANN. § 17-38a – 17-38e (1977 Special Pamphlet, as amended by PA 77-308 (1977)
Delaware	DEL. CODE ANN. tit. 16, § 901 – 909, (1975 Cum. Supp.), as amended by HB 1111 (1976)
District of Columbia	D.C. CODE § 2-161 – 2-166; 16-2301(9), (1973 Edition)
Florida	FLA. STAT. ANN. § 827-07 – 827-09 (1977 Cum. Supp.)
Georgia	GA. CODE ANN. § 74-111 (reporting); § 99-4301 – 4304 (confidentiality of records) (1976 Cum. Supp.)
Hawaii	HAWAII REV. STAT. § 350-1 – 350-5; 346-1 (def.) (1975 Supp.)
Idaho	IDAHO CODE § 16-1601 – 1629; (1977 Cum. Supp.)
Illinois	ILL. STAT. ANN. tit. 23, § 2051 – 2061 (Smith-Hurd, 1977 Supp.)
Indiana	BURNS IND. STATS. ANN. (code edition) § 12-3-4.1-1 – 12-3-4.1-6 (1977 Cum. Supp.)
Iowa	IOWA CODE ANN. § 235A.1 – 235A.24; 232.2(15) (def. of neglect; not reportable) (1977-78 Cum. Supp.)
Kansas	KAN. STAT. ANN. § 38-716 – 38-724 (1976 Cum. Supp.)
Kentucky	KY. REV. STAT. ANN. § 199.335; 199.990 (7 & 8) (penalties); 199.011 (6) (def.: "abused or neglected child") (Baldwin's 1975 Repl. Vol. 3 1976 Temp Issue)
Louisiana	LA. REV. STAT. ANN. § R.S.: 14 403 (A-G) 46:52(16); 46:65 (West's, 1977 Cum. Supp.)

Maine	ME. REV. STAT. ANN. tit. 22, § 3851 – 3860 (1975 Supp.)
Maryland	MD. ANN. CODE art. 27, § 35A(a-j) (1976 Cum. Supp.)
Massachusetts	MASS. ANN. LAWS ch. 119, § 51A-G (1975 Cum. Supp.)
Michigan	MICH. STAT. ANN. 722-621-.636 (1977 Cum. Supp.)
Minnesota	MINN. STAT. ANN. § 626.556(1), 626.556(11), 260.015(10) 1977 Cum. Supp.)
Mississippi	MISS. CODE ANN. § 14.21.5 – 14.21.27 (1972 Annotation, 1976 Cum. Supp.) as amended by HB 30, 1977)
Missouri	MO. ANN. STAT. § 210.110 – 210.165 (Vermon's 1977 Cum. Supp.)
Montana	MONT. REV. CODE ANN. § 10-1300 – 10-1322 (1975 Cum. Supp.)
Nebraska	NEB. REV. STAT. § 28-1501 – 1506 (1976 Cum. Supp.)
Nevada	NEV. REV. STAT. § 200.501 – 508; 432-090 – 432.130 (1975)
New Hampshire	N.H. REV. STAT. ANN. § 169:37 – 45 (1973 Supp.)
New Jersey	N.J. STAT. ANN. § 9:6-8.8 – 8.32 (1977-78 Supp.)
New Mexico	N.M. STAT. ANN. § 13-14-1 – 13-14-3; 13-14-14.1 – 13-14-33; 13-14-25(G), 13-14-43
New York	N.Y. FAM. CT. ACT tit. 6, § 411-428; art. 10, § 1012 (McKinny Cum. Supp., 1977)
North Carolina	N.C. GEN. STAT. § 110-115 – 110-123; 8-53.1; 7A-278; 7A-283 (1975 Cum. Supp. as amended by HB 356, June 28, 1977)
North Dakota	N.D. CENT. CODE § 50-25.1-01 – 50-25.1-14; 27-20.02(5) (1977 Supp.)
Ohio	OHIO REV. CODE ANN. § 2151.031; 04; 2151.05; 2919.22; 2151.421; 2151.27; 2151.31; 2151.33; 2151.53; 2151.281; 2151.351 (Page's 1976 Repl. Vol.)
Oklahoma	OKLA. STAT. ANN. tit. 21, § 845-848 (1977-78 Cum. Supp.)
Oregon	ORE. REV. STAT. § 418-740 – 775; 990 146.750, 760, 780 (1975 Repl.)
Pennsylvania	PURDON'S PA. STAT. ANN. tit. 11, § 2101 – 2126 (1977-78 Cum. Supp.)
Rhode Island	R.I. GEN. LAWS ANN. § 11-9-3; 11-9-5; 11-9-5.1; 11-9-5.2; 4-1-3(H); 40-11-1 – 40-11-16 (1976 Supp.)
South Carolina	CHILD PROTECTION ACT OF 1977, R297, H2796, June 13, 1977
South Dakota	S.D. CODIFIED LAWS ANN. 26-8-6; 26-10-1; 26-10-15 (1976 Revision)

Tennessee	TENN. CODE ANN. ch 37, § 202-249; 1201 – 1212; 101 (def.) (1976 Cum. Supp.)
Texas	VERNON'S TEX. CODES ANN. Family Code: § 34.01 – 34.08; 35.04; Civil Code: art, 2330 (1976-77 Cum. Supp.)
Utah	UTAH CODE ANN. § 55-16-1 – 55-16-7 (1977 Supp.)
Vermont	VT. STAT. ANN. tit. 13, § 1351-1356 (1977 Cum. Supp.)
Virginia	CODE OF VA. § 2.1-64:32 – 64:36; 16.1-217.5 – 217.9 (1977 Cum. Supp.)
Washington	WASH. REV. CODE ANN. § 26.44.010 – 26.44.200; 26.37.020; 26.37.040 (1976 Supp.) WASH. ADMIN. CODE § 388-16-500 – 388-16-545 (1976 Supp.)
West Virginia	W. VA. CODE ANN. § 49-1-1 – 49-7-27 (1977 Cum. Supp.)
Wisconsin	WISC. STAT. ANN. § 48.56; 48.57; 48.981; 905.04(4) (e), (1977-78 Cum. Supp.)
Wyoming	WYO. STAT. ANN. § 14.21 – 14-28.15 (1976 Interim Supp., as amended by HB 140, 1977)

Appendix C

STATE STATUTES ON TERMINATION OF PARENTAL RIGHTS

State	Citation
Alabama	None
Alaska	ALAS. STAT. § 47-10-010 *et seq.* (1977 Cum. Supp.), as amended by Ch. 63, § 7, 8, SLA 1977.
Arizona	ARIZ. REV. STAT. § 8-531 – 8-544 (1978 Cum. Supp.)
Arkansas	ARK. STAT. ANN. § 56-106, 45-401 *et seq.* (1975 Cum. Supp.)
California	CAL. CIVIL CODE § 232-239 (1977 Cum. Supp.)
Colorado	COLO. REV. STAT. ANN. § 19-11-101 *et seq.* (1976 Cum. Supp.), as amended by HB 1563, 1977 Session Laws.
Connecticut	CONN. GEN. STAT. ANN. § 17-43a, 45-61a *et seq.* (1977 Special Pamphlet)
Delaware	DEL. CODE ANN. Tit. 13, § 1101-1113 (1975 Cum. Supp.)
Florida	FLA. STAT. ANN. § 39.01 *et seq.* (1977 Cum. Supp.)
Georgia	GA. CODE ANN. § 24A-3201 - 3204, 24A 1601 – 1603 (1976 Cum. Supp.)
District of Columbia	D.C. CODE ENCYC. § 16-304, 312. (1977-78 Supp.)
Hawaii	HAWAII REV. STAT. § 571-61 – 571-63, 571-11 (1975 Supp.)
Idaho	IDAHO CODE § 16-2001 – 16-2015 (1977 Cum. Supp.)
Illinois	ILL. REV. STAT. Ch. 4 § a.1-1, Ch. 37, § 669.1-1(d) 705-9 (Smith-Hurd, 1977 Supp.)
Indiana	BURNS, IND. STAT. ANN. (Code Edition) § 31-3-1-6, 31-3-1-7 (1977 Cum. Supp.)
Iowa	IOWA CODE ANN. § 600A-1 – 600A.9 (1977-78 Cum. Supp.)
Kansas	KAN. STAT. ANN. § 38-801 – 38-835 (1976 Cum. Supp.)
Kentucky	KY. REV. STAT. ANN. § 199.600 *et seq.* (Baldwins' 1975 Repl. Vol., 1976 Temp. Issue)
Louisiana	LA. REV. STAT. ANN. (RS) § 13-1600 – 13-1605 (Westi 1977 Cum. Supp.)
Maine	ME. REV. STAT. ANN. tit. 22 § 3792 – 3793 (1975 Supp.)

Maryland	None
Massachusetts	None
Michigan	MICH. STAT. ANN. § 27.3178, 598.1 *et seq.* (1977 Cum. Supp.)
Minnesota	MINN. STAT. ANN. § 260-221 – 260-245 (1977 Cum. Supp.)
Mississippi	MISS. CODE ANN. § 95-15-1 – 95-15-11 (1977 Cum. Supp.)
Missouri	VERNON'S MO. STAT. ANN. § 211.441 – 211.501 (1977 Cum. Supp.)
Montana	MONT. REV. CODE ANN. § 10-1310 – 10-1314 (1977 Cum. Supp.)
Nebraska	NEB. REV. STAT. § 43-209 (1976 Cum. Supp.)
Nevada	NEV. REV. STAT. § 128.005 – 128.140 (1975)
New Hampshire	N.H. REV. STAT. ANN. § 170-C:1 – 170-C:12 (1973 Supp.)
New Jersey	N.J. STAT. ANN. § 9:2-18 – 9:2-20, 30:4C-15 – 30:4C-24 (1977-78 Supp.)
New Mexico	N.M. STAT. ANN. § 22-2-23 (1976-77 Interim Supp.)
New York	N.Y. FAM. CT. ACT § 611 *et seq.* Social Services Law, § 384b. (McKinney Cum. Supp., 1976-77)
North Carolina	D.C. GEN. STAT. § 7A-288-289 (1975 Cum. Supp.)
North Dakota	N D. CENT. CODE § 27-20-02 *et seq.* (1977 Supp.)
Ohio	OHIO REV. CODE ANN. § 2151.03, 2151.04, 2151.353, 2151.031 (Page's 1976 Repl. Vol.)
Oklahoma	OKLA. REV. STAT. ANN. tit. 10, § 1130 – 1134 (1977-78 Cum. Supp.)
Oregon	ORE. REV. STAT. § 419.523 – 419.527 (1975 Repl. Pt.)
Pennsylvania	PURDON'S PA. STAT. ANN. tit. 1 § 301-321 (1977-78 Cum. Supp.)
Rhode Island	R.I. GEN. LAWS ANN. § 15-7-6 – 15-7-21 (1976 Supp.)
South Carolina	S.C. CODE ANN. § 15-1095.35, 15-1103(11), 15-1171(3) (1975 Cum. Supp.)
South Dakota	S.D. CODIFIED LAWS ANN. § 26-8-1 *et seq.* (1976 Revision)
Tennessee	TENN. CODE ANN. § 37-219, 220, 246, 247 (1976 Cum. Supp.)
Texas	VERNON'S TEX. CODES ANN. § Family Code, § 15.01 – 15.07 (1976-77 Cum. Supp.)
Utah	UTAH CODE ANN. § 55-10-109 (1977 Supp.)
Vermont	VT. STAT. ANN. tit. 33 § 632(a) (12), 632(a) (16), 656(a) (3) (1977 Cum. Supp.)

Virginia	CODE OF VA. §16.1-2F1 (1977 Cum. Supp.)
Washington	WASH. REV. CODE ANN. § 13.04.010, 13.04.095, 13.04.100 (1976 Supp.)
West Virginia	W.VA. CODE ANN. § 49-6-1 – 49-6-8 (1977 Cum. Supp.)
Wisconsin	WISC. STAT. ANN. § 48.40, F8.43 (1977-78 Cum. Supp.)
Wyoming	WYO. STAT. ANN. § 14-53 – 14-58 (1977 Interim Supp.)

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